

REMARKS/ARGUMENTS

Reconsideration and allowance of this application are respectfully requested. Currently, claims 1-12 and 21-34 are pending in this application. Claims 3-4 and 7-8 have been withdrawn from consideration. Of new claims 24-34, at least claims 24-27, 30-31 and 34 are directed to the elected invention.

Objections to the Claims:

Claims 22 and 23 were objected to as allegedly being in improper dependent form. Claims 22-23 have been rewritten in independent form. Applicant thus respectfully requests that the objections to these claims be withdrawn.

Rejection Under 35 U.S.C. §102:

Claims 1-2, 5-6, 9-10 and 21-23 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Matsunaga (U.S. '934). Applicant respectfully traverses this rejection.

For a reference to anticipate a claim, each element must be found, either expressly or under principles of inherency, in the reference. Each claim limitation is not found in Matsunaga. For example, Matsunaga fails to disclose “a diagnosis function evaluation part that determines that the fault diagnosis function is not in a normal condition when the diagnosis process is not completed during one of a predetermined number and a predetermined time period.” Matsunaga also fails to disclose “a diagnosis function evaluation part that evaluates the fault diagnosis function based on one of the completion ratio and the incompleteness ratio,” as required by independent claim 5 and its dependents. Similar comments apply to independent claim 9 and its dependents.

The present invention relates to a diagnosis function evaluation part which determines that the fault diagnosis function is not in a normal condition when the diagnosis process of the fault diagnosis function is not completed during a predetermined number or a predetermined time period. When the diagnosis process has not been completed for a predetermined time period or a predetermined number, the diagnosis function evaluation part determines that the diagnosis function is not in the normal condition. The evaluation system can thus appropriately determine a status of a fault diagnosis function.

The present invention thus relates to an evaluation system which determines whether the diagnosis function, which itself diagnoses certain equipment, is normal. The evaluation part determines whether the diagnosis function is normal, not whether a certain equipment is normal.

Matsunaga discloses a failure diagnosis apparatus which automatically collects information and diagnoses failure of a vehicle through a gateway. However, Matsunaga fails to disclose a diagnosis function evaluation part which determines that the fault diagnosis function is not in a normal condition when the diagnosis process of the fault diagnosis function is not completed during a predetermined number or a predetermined time period. Matsunaga only discloses the apparatus diagnosing the certain equipment of a vehicle, but does not disclose the apparatus determining whether the diagnosis function, which itself diagnoses the certain equipment, is normal.

With respect to claim 1, page 3, lines 1-4 of the Office Action apparently alleges that col. 4, lines 31-67, col. 5, line 48 - col. 6, line 44 and col. 7, line 60 - col. 8, line 10 discloses the claimed diagnosis function evaluation part. Applicant respectfully disagrees

with this allegation. As noted above, Matsunaga only discloses a failure diagnosis which diagnoses whether certain equipment is normal. The above cited portions of Matsunaga are no different. For example, col. 5, lines 48-53 (among the specifically identified portions of Matsunaga) discloses:

“In the above-mentioned construction, for example, each of the electronic controllers, which constitute the control system 10, has a self diagnosis function, and carries out a failure diagnosis so as to detect abnormalities or malfunctions of sensors, actuators and the like during traveling of the vehicle (emphasis added).”

From the above cited portion of Matsunaga, it is clear that Matsunaga merely discloses diagnosing certain equipment, not performing an evaluation of that diagnosis function so that the failure diagnosis is not deemed to be in a normal condition when the diagnosis process is not completed during a predetermined number or time period.

Accordingly, Applicant respectfully submits that claims 1-2, 5-6, 9-10 and 21-23 are not anticipated by Matsunaga and respectfully requests that the rejection of these claims under 35 U.S.C. §102 be withdrawn.

New Claims:

New claims 24-34 have been added to provide additional protection for the invention. Claims 24-33 require, *inter alia*, a diagnosis function evaluation part. Claim 34 requires “evaluating the diagnosis function....” Applicant respectfully submits that these claims are allowable.

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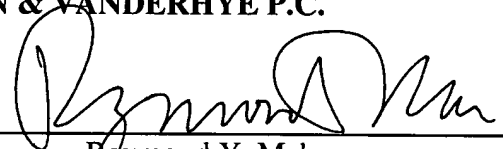
Conclusion:

Applicant believes that this entire application is in condition for allowance and respectfully requests a notice to this effect. If the Examiner has any questions or believes that an interview would further prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____

A handwritten signature in black ink, appearing to read 'Raymond Y. Mah', is written over a horizontal line.

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